

House File 120 - Introduced

HOUSE FILE 120

BY WINDSCHITL

A BILL FOR

1 An Act concerning matters relating to the transportation of
2 railroad workers and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 327F.39, subsection 1, Code 2015, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *00e. "Employee",* when used in connection
4 with the transportation of railroad workers, means a driver
5 who performs a service for the railroad worker transportation
6 company, either for wages or as an independent contractor.

7 NEW PARAGRAPH. *00e. "Employer",* when used in connection
8 with the transportation of railroad workers, means a railroad
9 worker transportation company.

10 Sec. 2. Section 327F.39, subsection 1, paragraph h, Code
11 2015, is amended to read as follows:

12 *h. "Railroad worker transportation company"* means a person,
13 other than a railroad ~~corporation~~ company, organized for the
14 purpose of or engaged in the business of transporting, for
15 hire, railroad workers to or from their places of employment or
16 in the course of their employment in motor vehicles designed to
17 carry ~~seven~~ five or more persons but fewer than sixteen persons
18 including the driver.

19 Sec. 3. Section 327F.39, subsection 3, Code 2015, is
20 amended by adding the following new paragraphs after unnumbered
21 paragraph 1:

22 NEW PARAGRAPH. *a.* An employer who owns or operates a
23 motor vehicle for the transportation of railroad workers
24 shall inspect the motor vehicle or cause the motor vehicle to
25 be inspected annually in compliance with 49 C.F.R. §396.17,
26 as amended, by a person qualified to perform the inspection
27 as provided in 49 C.F.R. §396.19, as amended. In addition,
28 the employer shall require each employee who drives a motor
29 vehicle for the transportation of railroad workers to complete
30 a written daily report as provided in 49 C.F.R. §396.11, as
31 amended.

32 NEW PARAGRAPH. *b.* An employer shall establish a maintenance
33 and repair program that provides for weekly inspection of each
34 motor vehicle operated by its employees for the transportation
35 of railroad workers to assure overall cleanliness of the motor

1 vehicle, that parts and accessories are in safe and operable
2 condition, and that the motor vehicle is equipped with all of
3 the following in good repair:

4 (1) Tires with sufficient tread as prescribed in 49 C.F.R.
5 §393.75, as amended.

6 (2) A fully inflated spare tire.

7 (3) A secure location for personal baggage, including
8 proper baggage restraints.

9 (4) Fully operational seatbelts for all passenger seats.

10 (5) If required by weather conditions, traction devices,
11 studs, or chains.

12 (6) A heater and air conditioner that are properly working
13 with properly working fans.

14 (7) An emergency road kit that contains, at a minimum, a
15 tire-inflating aerosol can, flares or reflective triangles,
16 jumper cables, and a fire extinguisher.

17 (8) A readily available first aid kit in compliance with
18 29 C.F.R. §1910.151, as amended, which includes the articles
19 described in appendix A of that section.

20 NEW PARAGRAPH. c. A motor vehicle used for the
21 transportation of railroad workers shall be equipped with an
22 operable amber flashing light mounted on the rear one-third
23 portion of the roof in order to provide warning to other
24 motorists whenever the vehicle has slowed or stopped on or near
25 the roadway.

26 NEW PARAGRAPH. d. A motor vehicle used for the
27 transportation of railroad workers shall not be operated in a
28 condition that is likely to cause an accident or a mechanical
29 breakdown.

30 NEW PARAGRAPH. e. An employer shall maintain records
31 relating to the maintenance and repair program for each motor
32 vehicle operated by its employees for the transportation of
33 railroad workers. The records shall include:

34 (1) Identifying information for the motor vehicle,
35 including the vehicle identification number; make, model, and

1 year of manufacture; and the railroad company's identification
2 number if provided.

3 (2) Owner information if the employer is not the owner of
4 the vehicle.

5 (3) The history of inspections, repairs, and maintenance
6 that describes each activity and the date the activity was
7 performed.

8 NEW PARAGRAPH. *f.* Records required under this section shall
9 be maintained by an employer at its principal place of business
10 for one year. If a motor vehicle leaves the employer's
11 control, the records pertaining to that vehicle shall be
12 maintained by the employer at the employer's principal place of
13 business for six months.

14 NEW PARAGRAPH. *g.* An employer and the employer's officers,
15 agents, and employees who are involved with the inspection or
16 maintenance of motor vehicles shall comply with the employer's
17 maintenance and repair program as provided under this section.

18 Sec. 4. Section 327F.39, Code 2015, is amended by adding the
19 following new subsections:

20 NEW SUBSECTION. 5A. *Driver qualifications.*

21 *a.* An employer shall maintain a driver qualification
22 file for each employee who drives a motor vehicle for the
23 transportation of railroad workers. The driver qualification
24 file shall include all of the following:

25 (1) A certificate of physical examination signed and dated
26 within the previous two years by a physician licensed under
27 chapter 148 certifying that the employee is physically able to
28 operate a motor vehicle.

29 (2) Documentation that the employer has reviewed the
30 driver's driving record within the previous twelve months.

31 (3) Documentation relating to the driver's violation of any
32 applicable motor vehicle laws or ordinances.

33 (4) Other documentation related to the driver's
34 qualification or ability to drive a motor vehicle.

35 (5) The driver's application for employment as provided by

1 49 C.F.R. §391.21, as amended.

2 (6) References from previous employers, if required by the
3 current employer.

4 (7) A copy of the driver's current class D driver's license
5 or an equivalent driver's license.

6 *b.* A person shall be disqualified from driving for an
7 employer if the driver is convicted of two or more serious
8 traffic violations committed within a three-year period in this
9 state or another state. For purposes of this section, "*serious*
10 *traffic violation*" means any violation committed while operating
11 a motor vehicle if the violation resulted in the suspension
12 or revocation of the person's driver's license, or any of the
13 following violations, whether or not the violation resulted in
14 license suspension or revocation:

15 (1) A violation of chapter 321J or an equivalent law of
16 another state.

17 (2) A seat belt violation.

18 (3) A violation of commercial motor vehicle laws.

19 (4) A speeding violation for a speed of fifteen miles per
20 hour or more over the legal limit.

21 (5) Negligent homicide.

22 (6) Using a motor vehicle in the commission of a felony.

23 (7) Evading arrest.

24 (8) Using a motor vehicle to flee law enforcement.

25 (9) Careless driving.

26 (10) Prohibited passing of another vehicle.

27 (11) Unlawfully passing a stopped school bus.

28 (12) Failure to obey an official traffic-control signal or
29 device.

30 (13) Failure to obey a railroad crossing gate.

31 (14) Driving while the person's driver's license or
32 operating privileges are suspended, canceled, or revoked.

33 (15) Driving the wrong way on a one-way street.

34 *c.* Prior to allowing a person to perform the duties of
35 a driver, an employer shall require the person to submit to

1 testing for alcohol and controlled substances as provided in
2 49 C.F.R. pts. 40 and 382, as amended. A person shall not be
3 allowed to perform the duties of a driver unless the alcohol
4 test result for the person indicates an alcohol concentration
5 of zero and the controlled substances test result from a
6 medical review officer, as discussed in 49 C.F.R. §40.3, as
7 amended, indicates a verified negative.

8 *d.* (1) As soon as practicable following an accident
9 involving a motor vehicle owned or operated by an employer,
10 the employer shall test each surviving driver for alcohol and
11 controlled substances if any of the following apply:

12 (a) The accident involved the death of a person.

13 (b) The driver received a citation for a moving violation
14 arising from the accident and the accident involved bodily
15 injury to a person who immediately received medical treatment
16 after the accident.

17 (c) The driver received a citation for a moving violation
18 arising from the accident and the accident involved disabling
19 damage to one or more motor vehicles involved in the accident.

20 (2) Testing for the presence of alcohol shall be conducted
21 immediately following the accident or no later than eight hours
22 after the accident. Testing for the presence of controlled
23 substances shall be conducted immediately following the
24 accident or no later than thirty-two hours after the accident.
25 The test results shall be submitted to the department. The
26 employer shall maintain a record of the test results for five
27 years following the date of the accident.

28 *e.* Notwithstanding any other provision, a person shall be
29 disqualified from driving for the employer upon the occurrence
30 of any of the following:

31 (1) The person's alcohol and controlled substances test
32 results are not in compliance with paragraph "c".

33 (2) The person refuses to provide a specimen for alcohol
34 testing, testing for controlled substances, or both.

35 (3) The person submits an adulterated specimen, a dilute

1 positive specimen, or a substituted specimen for an alcohol
2 test or a test for controlled substances.

3 *f.* Testing of an employee for the presence of alcohol or a
4 controlled substance under this subsection shall be performed
5 in accordance with section 730.5.

6 NEW SUBSECTION. 5B. *Financial liability coverage.*

7 *a.* An employer shall maintain financial liability coverage
8 in the amount of one million dollars per person, up to a
9 maximum of five million dollars, for each motor vehicle owned
10 or operated by the employer to transport railroad workers.

11 *b.* An employer shall maintain uninsured and underinsured
12 motor vehicle coverage in the amount of one million dollars
13 per motor vehicle occupant, up to a maximum of five million
14 dollars, for each motor vehicle owned or operated by the
15 employer to transport railroad workers.

16 Sec. 5. Section 327F.39, subsection 6, Code 2015, is amended
17 to read as follows:

18 6. ~~*Rule violations*~~ *Violations.* When the administrator
19 finds that a motor vehicle used to transport workers to and
20 from their places of employment or during the course of their
21 employment ~~violates~~ is not in compliance with this section or a
22 rule adopted under this section, the administrator shall make,
23 enter, and serve upon the owner of the motor vehicle an order
24 as necessary to protect the safety of workers transported in
25 the motor vehicle. The administrator may direct in the order,
26 as a condition to the continued use of the motor vehicle for
27 transporting workers to and from their places of employment or
28 during the course of their employment, that additions, repairs,
29 improvements, or changes be made and that safety devices and
30 safeguards be furnished and used as required to satisfy the
31 rules in the manner and within the time specified in the order.
32 The order may also require that any driver of the motor vehicle
33 satisfy the minimum standards for a driver under ~~the~~ this
34 section or rules adopted under this section.

35 Sec. 6. Section 327F.39, Code 2015, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 6A. *Access provided to department.* An
3 employer shall provide the department, or an agent or employee
4 of the department, with access to the following:

5 a. A facility owned or controlled by the employer, for the
6 purpose of determining compliance with this section.

7 b. Records related to an accident involving a vehicle owned
8 or operated by the employer.

9 Sec. 7. Section 327F.39, subsection 7, Code 2015, is amended
10 to read as follows:

11 7. *Penalty.*

12 a. Violation Except as otherwise provided in this
13 subsection, a violation by the owner of a motor vehicle of this
14 section, a rule adopted under this section, or an order issued
15 under subsection 6, or willful failure to comply with such an
16 order is, upon conviction, subject to a schedule "one" penalty
17 as provided under section 327C.5.

18 b. A violation of subsection 5 or rules adopted pursuant
19 to subsection 5 by a railroad worker transportation company or
20 a railroad company is punishable as a schedule "one" penalty
21 under section 327C.5.

22 c. A railroad worker transportation company or a railroad
23 company that violates this section or a rule adopted pursuant
24 to this section may be subject to a civil penalty not to exceed
25 two thousand dollars in addition to any other penalty provided
26 by law.

27 d. Each violation of this section or a rule adopted pursuant
28 to this section constitutes a separate and distinct offense,
29 and for violations of a continuing nature, each day that a
30 violation continues constitutes a separate offense.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill contains provisions relating to companies
35 that operate motor vehicles and employ drivers for the

1 transportation of railroad workers.

2 Under the bill, the term "employer" means a railroad worker
3 transportation company. The term "employee" refers to a driver
4 who performs a service for a railroad worker transportation
5 company, either for wages or as an independent contractor.

6 Current law defines "railroad worker transportation company"
7 as a company organized for the purpose of or engaged in the
8 business of transporting, for hire, railroad workers to or from
9 their places of employment or in the course of their employment
10 in motor vehicles designed to carry seven or more persons but
11 fewer than 16 persons including the driver. The bill alters
12 the definition to include motor vehicles designed to carry five
13 or more, but fewer than 16, persons.

14 The bill requires an employer to provide for annual
15 inspection of the employer's motor vehicles by a qualified
16 person. In addition, each employee who drives a motor vehicle
17 must complete a daily written vehicle report. An employer is
18 also required to establish a maintenance and repair program
19 that includes weekly inspection of each motor vehicle, with a
20 focus on cleanliness and the condition of vehicle parts and
21 accessories specified in the bill. An employer is required to
22 maintain records relating to vehicle maintenance and repair for
23 one year, or for a vehicle no longer in the employer's control,
24 for six months.

25 The bill requires an employer to maintain a driver
26 qualification file for each employee that includes specified
27 documentation relating to the employee's driving record
28 and employment record. The bill states that an employee
29 is disqualified from driving for an employer if the driver
30 is convicted of two or more serious traffic violations
31 committed within three years in Iowa or in any other state.
32 For purposes of the bill, "serious traffic violation" means
33 any violation committed while operating a motor vehicle
34 if the violation resulted in suspension or revocation of
35 the person's drivers license, or the following violations,

1 whether or not the violation resulted in license suspension
 2 or revocation: operating while intoxicated, a seat belt
 3 violation, a violation of commercial motor vehicle laws,
 4 speeding more than 15 miles per hour over the limit, negligent
 5 homicide, using a motor vehicle in commission of a felony,
 6 evading arrest, using a motor vehicle to flee law enforcement,
 7 careless driving, prohibited passing, unlawfully passing a
 8 school bus, failure to obey a traffic control signal or device,
 9 driving while suspended, and driving the wrong way on a one-way
 10 street.

11 The bill requires drivers to be tested for the presence of
 12 alcohol and controlled substances as a condition of employment.
 13 In addition, an employer is required to have a driver tested
 14 for alcohol and controlled substances following an accident
 15 occurring in the course of the driver's employment if the
 16 accident involved the death of a person, or if the accident
 17 resulted in bodily injury to a person or disabling damage to a
 18 motor vehicle and the driver received a citation for a moving
 19 violation. Grounds for disqualification of a driver include
 20 a test result indicating an alcohol concentration above zero
 21 or a controlled substance test result other than a verified
 22 negative; refusing to provide a specimen for testing; or
 23 adulteration, dilution, or substitution of a specimen.

24 The bill requires an employer to maintain financial
 25 liability coverage in the amount of \$1 million per person, up
 26 to a maximum of \$5 million per motor vehicle owned or operated
 27 by the employer and uninsured or underinsured motorist coverage
 28 in the amount of \$1 million per motor vehicle occupant, up to a
 29 maximum of \$5 million per motor vehicle.

30 The bill requires an employer to provide the department of
 31 transportation with access to the employer's facilities and to
 32 records relating to accidents involving the employer's motor
 33 vehicles.

34 Pursuant to current law, a violation of the provisions
 35 relating to the transportation of railroad workers is

1 punishable by a schedule "one" penalty, which is a fine of
2 \$100. The bill allows an additional civil penalty of up to
3 \$2,000 to be imposed for any violation of the provisions of the
4 bill by a railroad company or a railroad worker transportation
5 company. Each violation of the provisions relating to the
6 transportation of railroad workers constitutes a separate and
7 distinct offense, and for violations of a continuing nature,
8 each day that a violation continues constitutes a separate
9 offense.